THE HON'BLE SMT. JUSTICE T. MEENA KUMARI
and
THE HON'BLE SRI JUSTICE G. CHANDRAIAH

WRIT PETITION No. 19435 of 2007

O R D E R: (Per the Hon'ble Smt. Justice T. Meena Kumari)

This writ petition is filed against the order dated 11.9.2006 passed by the Central Administrative Tribunal, Hyderabad Bench in O.A. No. 39 of 2005.

When the matter has come up, the learned Assistant Additional Solicitor General contended that in view of the law laid down by the Supreme Court in **Food Corporation of India and another v. Abhay Ram**[1] the sealed cover cannot be opened, as, on the date of the meeting of Departmental Promotion Committee disciplinary action was pending against the respondent and basing on the report of the disciplinary authority the respondent was inflicted with the punishment of Censure. Thus, he contended that the Tribunal erred in directing the Department to open sealed covers.

On the other hand, it is contended by the learned counsel for the respondent that only on the technical ground the writ petition has been filed and the contention raised by the petitioner – Department has no relevance to the particular facts of the case.

We also had an occasion to go through the decision

of the Supreme Court in **Food Corporation of India's** case (referred (1) supra) wherein it is held:

> "Having heard the learned counsel for the appellant and having examined the materials on record, we have no hesitation to come to the conclusion that the High Court was totally in error in issuing the impugned direction requiring the employer to open the sealed cover and to implement the decision taken in the sealed cover. Be it stated that in the meantime, the disciplinary proceeding has culminated in finding the guilt of the respondent and inflicting certain punishments therefor".

In the present case also, as on the date of meeting of DPC, disciplinary proceedings were pending against the respondent and hence the decision of the DPC was kept in sealed cover and ultimately the disciplinary proceedings culminated in awarding punishment of Censure and therefore the sealed cover was not opened and the same is in accordance with the decision of the apex Court in the above referred case. Therefore, following the law laid down by the apex Court in **Food Corporation of India's** case (referred (1) supra), we are of the considered view that the Tribunal erred in directing the petitioner – Department to open the sealed cover. The said order passed by the Tribunal is liable to be set aside and it is accordingly set aside.

The writ petition is allowed accordingly.

T. MEENA KUMARI, J.

G. CHANDRAIAH, J.

Date: 30-10-2007.

MVB.

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[1] (2002) 10 SCC 455